

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6362

BILL NUMBER: HB 1049

NOTE PREPARED: Jan 30, 2012

BILL AMENDED: Jan 25, 2012

SUBJECT: Problem-Solving Courts.

FIRST AUTHOR: Rep. Koch

FIRST SPONSOR: Sen. Bray

BILL STATUS: As Passed House

FUNDS AFFECTED: ☒ **GENERAL**
DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill has the following provisions:

- A. *Cap on Fees* – It provides that the cap on the fees for program services provided to a person participating in a court-established alcohol and drug services program does not apply to fees for education or treatment and rehabilitation services. The bill allows a problem-solving court to collect program fees.
- B. *Informal Adjustment Program* – It provides that a person may participate in a problem-solving court program as a condition of an informal adjustment program in a child in need of services proceeding.
- C. *Nonsuspendible Sentences* – It eliminates an individual's agreement to the conditions of participation in the program if the case for which the individual is referred to the problem solving court involves a nonsuspendible sentence as a precondition to the placement of the individual in a problem-solving court program.
- D. *Civil Proceedings* – It authorizes the Inspector General to directly institute civil proceedings against persons who have failed to pay civil penalties imposed by the State Ethics Commission.
- E. *Copies of Certain Reports* – It requires the State Board of Accounts to provide to the Inspector General (in addition to the Attorney General) copies of certain reports concerning: (1) malfeasance, misfeasance, or nonfeasance in office by public officials or employees; (2) fraud or misconduct with respect to public contracts; or (3) unlawful expenditure or diversion of public money.
- F. *Wabash City Court* – It provides that the Wabash City Court has concurrent jurisdiction with the circuit court in civil cases in which the amount in controversy does not exceed \$3,000.

Effective Date: July 1, 2012.

Explanation of State Expenditures: (Revised) *Civil Proceedings* -- Under current law, the Office of the Attorney General is the only state agency that is authorized to file proceedings to collect civil penalties in courts with small claims jurisdictions without paying a court fee. Presumably, the Office of the Inspector General would be required to pay a series of fees totaling \$76 for each case filed.

Explanation of State Revenues: (Revised) *Wabash City Court* – Under current law, the limit on civil cases in Wabash City Court is \$500. This provision would increase the limit to \$3,000. For every case filed in the Wabash City Court rather than in either the Wabash Circuit or Superior Court, the state General Fund would receive \$18 less in filing fees. The filing fee for a civil case is \$120. For each case filed in a trial court, the state General Fund receives 70% of the fee. If the case is filed in a city or town court, the state receives 55%.

The following table shows the revenue distribution based on whether the case is filed in either a trial court or a city or town court.

Revenue Distribution from \$120 Filing Fee By Type of Court			
	State Share	County Share	Municipal Share
Trial Court	\$84.00	\$32.40	\$3.60
Wabash City Court	\$66.00	\$24.00	\$30.00
Difference	(\$18.00)	(\$8.40)	\$26.40

Background -- The Wabash City Court reported 481 civil collections in CY 2010, while both circuit and superior courts in Wabash County reported 509 petitions for civil collections in CY 2010.

Explanation of Local Expenditures: *Informal Adjustment Program* – This provision applies to parents, guardians, or other household members of children in need of services (CHINS) when the adults are dealing with substance abuse issues. Under current law, courts with juvenile jurisdiction can only order these adults to participate in a drug treatment program after a finding is made (post disposition orders). This bill would allow courts to make these orders prior to making a finding, and get the individual into treatment more quickly. Courts with this type of jurisdiction are called Family Dependency Treatment Courts. Currently, Clark, Marion, and Noble Counties are developing certified family dependency courts

Nonsuspendible Sentences – This provision gives courts additional flexibility to order certain offenders to participate in programs that problem-solving courts provide. Staff at the Indiana Judicial Center report that published research indicates that an individual's initial lack of motivation or desire to participate in treatment does not necessarily indicate that an individual will fail in treatment.

Disposing of a Case – Staff at the Indiana Judicial Center note that while the vast majority of problem-solving courts accept the transfer of cases from other courts, some courts prefer to retain jurisdiction of their own cases. These courts may refer individuals to a problem-solving court and defer to the problem-solving court judge while that individual participates in the problem-solving court. When the individual either successfully completes the program or is terminated, the court will take the cases back for final disposition. Consequently, this statute allows flexibility in court operations to meet the needs of both the sentencing court and the problem-solving court.

Explanation of Local Revenues: *Cap on Fees* – Staff with the Indiana Judicial Center report that lifting the limit on program fees for education services would permit courts to provide more services in-house rather than refer defendants to outside providers. Under current law, if treatment is in-house, then all services must be under the \$400 cap. If the services are provided by community mental health centers, then the centers can charge outside the cap.

The costs of providing the education component of the drug treatment programs vary by program depending on how long the program lasts (8 to 20 hours) and whether the education is provided in-house or by contract.

[The current cap in statute is \$400. This fee was last increased in 2001, when SEA 506 – 2001 increased the fee from \$300 to \$400.]

(Revised) *Wabash City Court* – For each case filed in the Wabash City Court, Wabash County would lose \$8.40 and the city of Wabash would gain \$26.40. (See *Explanation of State Revenues*.)

State Agencies Affected: Office of the Inspector General

Local Agencies Affected: There are 54 court alcohol and drug programs in Indiana.; Wabash City Court

Information Sources: Diane Mains, Indiana Judicial Center; Conner, Bradley T. Douglas Longshore and M. Douglas Anglim, 2009, *Modeling Attitude Toward Drug Treatment: the Role of Internal Motivation, External Pressure, and Dramatic Relief*. Journal of Behavioral Health Services and Research 36: 150 - 158; Division of State Court Administration, Indiana Supreme Court

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